

**BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF:**

**JOSHUA PLANT  
PETITIONER**

**A.I.D. NO. 2019-32**

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**ORDER**

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On this day, the matter of the insurance producer license application of Joshua Plant ("Petitioner") came before Allen Kerr, Arkansas Insurance Commissioner ("Commissioner"). A hearing was held on April 17, 2019, in the First Floor Hearing Room of the Arkansas Insurance Department ("Department") pursuant to the Notice of Hearing dated April 3, 2019. The hearing was held before Chief Deputy Commissioner Russ Galbraith ("Hearing Officer") pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Gray Allen Turner, Associate Counsel. The Petitioner was present.

**FINDINGS OF FACT**

1. The Commissioner of Insurance has jurisdiction pursuant to the Arkansas Insurance Code, specifically Ark. Code Ann. §§ 23-60-101, *et seq.*
2. Petitioner, a resident of Ward, Arkansas, applied for a Resident Insurance Producer License on March 19, 2019.

3. The Department denied Petitioner's application on March 27, 2019.

4. Petitioner timely requested a hearing as to the license denial.

5. Petitioner was sent a notice of hearing on April 3, 2019, to the address provided by the Department.

6. Petitioner, in his producer application, disclosed that he had been convicted of several violations of the Uniform Code of Military Justice while serving as an airman in the U.S. Air Force.

7. In 2012, Petitioner was convicted of sexual abuse and adultery by General Court Martial and was sentenced to dishonorable discharge and confinement for 12 years. The case was heard by the United States Air Force Court of Criminal Appeals and its opinion was entered into the record without objection. *United States v. Plant*, \_\_\_\_\_ M.J. \_\_\_\_\_, No. ACM 38274 ( A.F. Ct. Crim. App. 1 Feb. 2016). The findings of the military court, are credible, accepted as true, and are given great weight for the purposes of this order.

8. The Petitioner was convicted of three charges, specifically Articles 120 and 134, UCMJ, 10 U.S.C. §§ 920, 934, including:

- a. Sexual abuse of a minor under the age of 16.
- b. Sexual abuse of a minor under the age of 18, due to incapacity.
- c. Adultery of a nature to bring discredit upon the armed forces.

9. Respondent called one witness, for the purpose of presenting expert opinion, Mr. Arthur Chupik, a therapist. Mr. Chupik has been a licensed social worker since 1976 and is a licensed sex offender treatment provider. He has participated in specialized training as to the treatment of sex offenders and

has participated in many years of continuing education classes. Based on his training and experience, Mr. Chupik is qualified to give expert testimony as to a sexual offender's risk of recidivism. While Mr. Chupik is qualified to give such an opinion, in this case, Mr. Chupik's opinion was based on inaccurate or insufficient information and therefore his testimony as to the Petitioner's probability for recidivism, while admissible, is given no weight.

10. The Petitioner's testimony was not credible concerning his rehabilitation.

11. The Petitioner's convictions are related to the license for which he has applied.

12. The Petitioner is a Level Two Sexual Offender, which requires "Moderate Community Notification." At the hearing, the Petitioner testified that "[n]o one is made aware that I'm a sex offender. There is no notification of their interest in the protection of society." The Petitioner's testimony was not credible and is inconsistent with the rules of the Arkansas Sex Offender Assessment Committee Guidelines and Procedures, Code Ark. R. 004.00.4-27, that state, as to Level 2 offenders:

- Employers must be notified
- State licensing boards will be notified as deemed appropriate by local law enforcement, when the person is licensed by the board.

## CONCLUSIONS OF LAW

From the Findings of Fact contained herein, the Commissioner concludes as follows:

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.

2. Although the Department can reject an application based on conviction of any crime – it has been the practice of the Department to consider each applicant as an individual, the gravity and seriousness of their crime, the length of time since crime occurred, and the relationship of the crime to the business of insurance.


3. Respondent gave conflicting testimony as to whether he committed the crimes for which he was found guilty. In his application, the Petitioner stated that he “maintains my innocence of these charges . . .” But, in his testimony, he also states “I accept responsibility for my actions.” As was found by an Arkansas Supreme Court case involving an attorney license application, “[a]n applicant's ‘continued denial’ of an act for which he or she has been found guilty or sanctioned ‘does not serve the applicant well’ in bar-admission proceedings and is, in fact, ‘unacceptable.’ ” *Shochet v. Ark. Bd. of Law Examiners*, 335 Ark. 176, (1998). The same is true as to insurance license proceedings. As was found in *Shocket*, the Petitioner’s continued denial of the charges for which he was found guilty is unacceptable and is sufficient reason for the denial of his license application.

4. The Petitioner's application is denied for the following reasons:
- a. The Petitioner has not presented sufficient evidence that he meets the requirements to be a licensed insurance producer as required by Ark. Code Ann. § 23-64-506.
  - b. A license application may be denied for violation of a law as authorized by Ark. Code Ann. §§ 23-64-506, 23-64-512(a)(2). The Petitioner has violated a law, specifically Articles 120 and 134, UCMJ, 10 U.S.C. §§ 920, 934. The Petitioner's crimes, which included the sexual abuse of two minor females and adultery bringing discredit to the armed forces, are of the highest gravity and seriousness.
  - c. The mitigating evidence presented by the Petitioner does not outweigh the seriousness of his criminal history. The Petitioner poses an unreasonable risk of harm to insurance customers of Arkansas and the industry.

**RECOMMENDATION OF HEARING OFFICER**

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

1. That the Arkansas Insurance Producer License application of the Petitioner be denied.

  
Russ Galbraith  
Chief Deputy Commissioner

**CERTIFICATION**

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer were made by and under my authority and supervision by Russ Galbraith, Chief Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation in full, as set forth herein.

THEREFORE, it is hereby ORDERED that the Arkansas insurance producer application of Joshua Plant is denied.

IT IS SO ORDERED THIS 28th DAY OF MAY, 2019.

  
ALLEN KERR  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS